

FRANK A. GYESCEK

MARCH 19, 1958.—Committed to the Committee of the Whole House and ordered to be printed

Mr. DONOHUE, from the Committee on the Judiciary, submitted the following

REPORT

[To accompany H. R. 9885]

The Committee on the Judiciary, to whom was referred the bill (H. R. 9885), for the relief of Frank A. Gyescek, having considered the same, report favorably thereon with an amendment and recommend that the bill as amended do pass.

The amendment is as follows:

Page 2, line 5, strike "in excess of 10 per centum thereof".

PURPOSE

The purpose of the proposed legislation is to pay Frank A. Gyescek, of Pittsburgh, Pa., \$176.59 in full settlement of his claims against the United States for reimbursement of the cost of repairs to his parked automobile which was struck by a United States mail truck on April 20, 1957, on Vickory Street, Pittsburgh, Pa.

STATEMENT

On April 20, 1957, five surplus vehicles were parked near Mr. Gyescek's car. These five surplus vehicles were to be sold, and had been parked in that place for several days. Mr. Gyescek had parked his car on Vickory Street near Magee Street and left it there for some time. When he returned he found that one of the surplus vehicles, a mail truck, had rolled down a hill and collided with his car. No one apparently had witnessed the accident. On the windshield of the car Mr. Gyescek found the following note:

Your vehicle was damaged when one of the mail trucks parked across from you had its brakes released and it drifted across the street. For information concerning the damage call the Post Office Garage Monday, April 22. Ask for Mr. Tappe, GRant 1-0800—Ext. 582.

Mr. Gyescek's car, a 1953 Buick sedan, was damaged so as to require \$176.59 worth of repairs. These repairs included replacement of the rear bumper face bar, straightening the frame, and repairs to the rear lid and light assemblies. Mr. Gyescek paid for these repairs and submitted a paid repair bill to the committee to show that these repairs actually had been made.

The report of the Post Office Department to this committee on the bill recommends enactment of the bill on the ground that Mr. Gyescek's automobile was damaged by a postal vehicle through no fault of his own. That report further states that—

* * * unidentified persons, alleged to have been children, released the brakes of the truck, which in turn, caused it to roll downgrade into a collision with Mr. Gyescek's properly parked automobile. Since the accident did not result from negligence on the part of any postal employee, the Department was required to disallow an administrative claim for damages filed by Mr. Gyescek under the Federal Tort Claims Act.

Under these circumstances and in view of the favorable recommendation of the Post Office Department, the committee recommends that the bill be considered favorably.

POST OFFICE DEPARTMENT,
OFFICE OF THE GENERAL COUNSEL,
Washington, D. C., February 19, 1958.

Hon. EMANUEL CELLER,
*Chairman, Committee on the Judiciary,
House of Representatives.*

DEAR MR. CHAIRMAN: Reference is made to the request for a report on H. R. 9885, a bill for the relief of Frank A. Gyescek.

This bill would authorize payment of \$176.59 to Frank A. Gyescek, of Pittsburgh, Pa., in full settlement of Mr. Gyescek's claim against the United States for damages resulting to his automobile when it was struck by a mail truck on April 20, 1957, at Pittsburgh, Pa.

An investigation by the Department disclosed that the mail truck was 1 of 5 surplus vehicles which had been properly parked in the same location for several days awaiting a prospective buyer, when unidentified persons, alleged to have been children, released the brakes of the truck, which in turn, caused it to roll downgrade into a collision with Mr. Gyescek's properly parked automobile. Since the accident did not result from negligence on the part of any postal employee, the Department was required to disallow an administrative claim for damages filed by Mr. Gyescek under the Federal Tort Claims Act.

In view of the foregoing, since Mr. Gyescek's automobile was damaged by a postal vehicle through no fault of his own, this Department recommends enactment of H. R. 9885.

The Bureau of the Budget has advised that there would be no objection to the submission of this report to the committee.

Sincerely yours,

HERBERT B. WARBURTON,
Acting General Counsel.

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